

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

ELIZABETH GAGNARD

*

CIVIL ACTION NO.:

*

VERSUS

*

JUDGE:

*

WAL-MART STORES, INC. ET AL

*

MAG. JUDGE:

NOTICE OF REMOVAL AND REQUEST FOR TRIAL BY JURY

Wal-Mart Stores, Inc. and Wal-Mart Louisiana, LLC, defendants in the state court suit brought by Elizabeth Gagnard, Docket Number 2014-922-B in the Twelfth Judicial District Court in and for the Parish of Avoyelles, State of Louisiana, file this Notice of Removal to the United States District Court for the Western District of Louisiana.

1.

This case was commenced in the Twelfth Judicial District Court in and for the Parish of Avoyelles, State of Louisiana, on September 8, 2014 by Elizabeth Gagnard against Wal-Mart Stores, Inc. and Wal-Mart Louisiana, LLC.

2.

Process was served on the defendants herein on September 17, 2014 as per copy of the petition, citations, and notices of service attached hereto as Exhibit "A".

3.

Plaintiff's action is one of a civil nature in which she seeks to recover from defendants damages and court costs plus legal interest for injuries received when she was allegedly injured when she slipped and fell on the wet floor as she walked into Wal-Mart #1128, 7162 Hwy. 1, Marksville, Louisiana, injuring her right knee.

4.

This civil action against the removing defendants is one in which the District Courts of the United States have original jurisdiction by virtue of the fact that there is diversity of citizenship among the parties and by virtue of the fact that the amount in dispute exceeds \$75,000.00, exclusive of interest and costs. The plaintiff, Elizabeth Gagnard, is a citizen and resident of and domiciled in the Parish of Avoyelles, State of Louisiana, as appears from plaintiff's Petition for Damages filed in state court. Defendant, Wal-Mart Stores, Inc. is a Delaware corporation with its principal place of business in the State of Arkansas. Wal-Mart Louisiana, LLC is a Delaware limited liability company with its principal place of business in the State of Arkansas.

5.

Plaintiff is alleging that as a result of her alleged accident, she sustained injury to her right knee. Her medical bills to date are unknown at this time and plaintiff is still undergoing medical treatment. The plaintiff is claiming damages for past, present, and future mental and physical pain and suffering, medical expenses, inconvenience, loss of income for past, present, future, disability and disfigurement, loss of enjoyment of life, disability and impairment, and mental anguish.

6.

On April 15, 2015, the plaintiff gave deposition testimony indicating that her treating physician recommended surgery for repair of a torn meniscus of the right knee (Exhibit "B", depo. of Elizabeth Gagnard, p. 17). The transcript of plaintiff's deposition was received in the office of undersigned counsel on May 15, 2015.

7.

The transcript of plaintiff's deposition represents "other paper" under 28 U.S.C. § 1446(b)(3) from which it was first ascertained that the case is one which has become removable. This Notice of Removal was filed within thirty days after receipt of such other paper as permitted by 28 U.S.C. § 1446(b)(3).

8.

Upon the filing of this Notice of Removal, written notice thereof is being given to all adverse parties, and a copy of this notice is being filed with the Clerk of Court of the aforesaid State Court to effect the removal of the said civil action as against these removing defendants, all as provided for by law.

9.

This cause is specifically removable to this Honorable Court pursuant to law, particularly the provision of 28 U.S.C. § 1441, et seq.

10.

Defendants, Wal-Mart Stores, Inc. and Wal-Mart Louisiana, LLC, reserve herein all rights to object to the jurisdiction of the State Court proceedings should this Court ultimately hold that this action was not removable or improperly removed thereto.

9.

Defendants request a trial by jury on all issues triable by jury.

WHEREFORE, defendants, Wal-Mart Stores, Inc. and Wal-Mart Louisiana, LLC, pray that the aforesaid civil action be removed from the Twelfth Judicial District Court for the Parish of Avoyelles, State of Louisiana, into this Court for trial and determination as provided by law, particularly, 28 U.S.C. § 1441, and thereupon to proceed with said civil

action as though originally commenced in this Court and for all orders and decrees as may be necessary or appropriate in such cases made and provided.

Respectfully submitted,

**Davidson, Meaux, Sonnier, McElligott
Fontenot, Gideon & Edwards**

s/David J. Calogero, # 1748

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CERTIFICATE

I HEREBY CERTIFY that on June 1, 2015 a copy of the foregoing Notice of Removal and Request For Trial By Jury was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to Darrel D. Ryland by operation of the Court's electronic filing system.

s/David J. Calogero (# 1748)

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